

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	4:08CR3129
	)	
V.	)	
	)	
MICHAEL F. WEAVER,	)	MEMORANDUM AND ORDER
	)	
Defendants.	)	
_____	)	

The defendant *may* be entitled to a reduction in sentence due to the retroactive application of the “Crack Cocaine Amendment” to the federal Sentencing Guidelines implementing the Fair Sentencing Act of 2010, effective November 1, 2011.<sup>1</sup> The defendant should understand that I have made no determination whether the defendant is covered by the Amendment or whether the defendant, if covered by the Amendment, should be given a reduction. Those questions are yet to be determined. With the foregoing in mind,

IT IS ORDERED that:

1. Pursuant to General Order No.2011-12, the Federal Public Defender (or his nominee) is herewith appointed to represent the defendant. The Clerk’s office shall provide the Federal Public Defender and the defendant with a copy of this order. *Appointed counsel shall promptly enter an appearance.*

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<sup>1</sup>It should also be noted that there is a pending Rule 35(b) motion. (Filing no. 248.)

2. The probation office has already provided a “Retroactive Sentencing Worksheet” to the undersigned. If counsel do not have a copy, counsel should contact the probation office to obtain one.
3. No later than June 1, 2012, counsel shall confer and do one of the following:
  - A. File a stipulation signed by both counsel containing the following provisions: (i) an agreement that the defendant is eligible for a sentence reduction pursuant to 18 U.S.C. § 3582(c) and U.S.S.G. § 1B1.10; (ii) an agreement that the defendant may be resentenced without being present and without further notice; and (iii) an agreement regarding the recommended sentence.
  - B. In lieu of the stipulation provided in paragraph A, counsel for the government shall contact my judicial assistant and arrange a telephone conference with the undersigned and counsel for the defendant so that further progression of this case may be scheduled.
4. The Clerk shall provide a copy of this Memorandum and Order to counsel and to the defendant at his or her last known address.

DATED this 10<sup>th</sup> day of May, 2012.

BY THE COURT:

*Richard G. Kopf*  
Senior United States District Judge